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ABSTRACT

This sample policy, proposed by the Brandywine School District (Delaware), addresses the issue of HIV Infection of employees and/or students. The policy was developed by an AIDS Committee appointed by the superintendent in January 1988, and comprised of members from every area in the school district community. This policy acts as district policy in addressing problems posed by the disease. The AIDS Committee based its policy recommendations on six underlying principles: (1) exclusion by medical decision; (2) development of new practices on handling body fluids; (3) confidentiality of medical records; (4) involvement of school personnel; (5) development of school district trust; and (6) development of an education program on HIV Infection. Policy recommendations include details on the media relationship, the education plan, and district policy on students and employees with HIV Infection. (SI)

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AASA Annual Convention
March 3, 1989
AIDS: Crisis Management

DEVELOPMENT OF A POLICY ON HIV INFECTION
Barbara D. Crowell

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SAMPLE POLICY

5/12/88

BRANDYWINE SCHOOL DISTRICT POLICY ON STUDENTS OR EMPLOYEES WITH HIV INFECTION

INTRODUCTION

Purpose

The Brandywine School District (the "District") cannot ignore the possibility that there are or will be District employees and/or students who are HIV-infected.¹ Thus the District developed the following policies to address such a situation. In dealing with such a circumstance, the District is committed to protecting the health and well-being of all members of our community. The District, however, must also honor the rights and be sensitive to the concerns of infected individuals and their families as they cope with a potentially fatal disease.

Statistics

According to the state epidemiologist, from 1983 until the end of 1987, there have been eighty reported cases in which individuals were diagnosed as having AIDS in Delaware, half of whom have died. Two of these cases occurred in children under the age of 13. There were no reported cases between the ages of 14 and 19. In addition, about sixty additional persons diagnosed

¹ HIV Infection is indicated by the presence of antibodies to Human Immunodeficiency virus (HIV). AIDS (Acquired Immunodeficiency Syndrome) is a serious condition that impairs the body's natural immunity against disease. It is caused by a virus known as HIV (also known as HTLV-III and LAV.) Persons who are HIV-infected may or may not have AIDS but are considered capable of passing HIV to others in specific, limited ways.

as having AIDS in other states have moved into Delaware. In the first two months of 1988, an additional ten to twelve cases have been reported. It is predicted that there will be approximately 1,400 reported cases of AIDS in Delaware by 1991, just three years away.

While the number of school-age children with AIDS is expected to remain small and while the District hopes it will never have to implement this policy, we believe it is crucial that we in the school community be adequately prepared in the event that we are faced with a student or employee who develops AIDS or becomes HIV infected.

Development of Policy

This policy was developed by an AIDS Committee comprised of school board members, administrators, teachers, school nurses, secretarial and clerical staff members, a school counselor, a maintenance representative, a food service worker, a transportation representative, a paraprofessional representative, parents and medical and legal advisors. The Committee was appointed by the Superintendent in January, 1988 and charged with proposing a comprehensive policy on how the District would respond to the known presence in the school community of a student or employee who is HIV infected.

From the Committee's deliberations on key policy questions emerged a set of underlying principles as set forth below. Certain issues were particularly difficult to resolve. For example, the issue of whether or not to mandate that a

classroom teacher be informed of the identity of an HIV-infected student in the teacher's classroom engendered considerable debate. Many Committee members found their positions on some of these more complicated issues changed as the issues were carefully analyzed and all the ramifications were explored. In the end, agreement was reached through a process involving careful and thoughtful discussions among all Committee members.

Underlying Principles

The AIDS Committee based its policy recommendations on the following underlying principles:

1. The issue of whether or not HIV-infected students or employees are excluded from any aspect of the school community should be a medical decision consistent with the welfare of the total school community and of the individual and consistent with the legal rights of such students to an education and of such employees to their employment.
2. Since some individuals may be unaware of or reluctant to reveal the fact that they are HIV-infected, we can maximize the safety of the members of our community only if body fluids² are handled in compliance with state policies adopted by the State Board of Education in December, 1985, which assume every individual is a potential source of HIV infection. It is insufficient to rely on knowing the identity of HIV-infected individuals. Past practices in handling body fluids simply must change.
3. District personnel have a legal duty not to reveal medical information and records to non-school personnel.
4. To maximize the maintenance of confidentiality, the number of school personnel who know the identity of an HIV-infected member of our school community should be kept to a minimum consistent with the safety and welfare of the infected individual and the other members of the school community.
5. The well-being of HIV-infected individuals and the school community is

² Body fluids in the context of HIV transmission refer to blood, semen and vaginal secretions. Other fluids, for example, saliva, urine, sweat, are included only if they are bloody.

enhanced if the infected individuals and their families trust the District to competently handle the situation. Such trust is fostered if information is treated with strict confidentiality, if sensitivity and understanding are demonstrated by District officials, and if the District is committed to protecting the student or employee from harassment and intimidation.

6. The school community's ability to deal appropriately with knowledge that members of our community are HIV-infected requires an extensive and continuing education program about how the HIV infection is and is not transmitted, about the need for every member of the community to take appropriate precautions when handling body fluids, and about the policies that District officials will follow should they become aware that a student or employee is HIV-infected.

RELATIONSHIP WITH MEDIA

The news media shall be informed about the District's policy relating to students and staff who are HIV-infected as soon as practicable after the policy is adopted by the Board. The Superintendent shall be the sole spokesperson for the District with the media in regard to any District student or employee known by the District to be HIV infected. Unless the infected student and/or the student's parents, or the infected employee have indicated to the District Superintendent in writing that they wish information about their medical condition to be made public, the District personnel will continue to treat any information they have with complete confidentiality even if others may indicate they have such knowledge. Any inquiries about an HIV-infected student or employee should be referred to the Superintendent, who will confirm the District's policy on confidentiality and the District's policy to protect the school community from known and unknown sources of infections by adherence to the state guidelines on the handling of body fluids.

EDUCATION PLAN

It is crucial that the entire school community, students and employees, be educated as soon as possible about the following:

1. current information on the nature of HIV-infection, the mode of transmission of the HIV infection, and the proper way to handle body fluids;
2. the importance of following the state policy, a copy of which is attached as Exhibit C, on handling body fluids. Members of our community must realize for their protection that our practices for handling body fluids must change and that body fluids from any member of our school community must be treated as though that person was infected with HIV;
3. the policies of the State and of this District in the event the District learns that a student or employee has tested positive for the HIV virus. Employees and students must know the policy so that they can comply with its provisions. Parents must be informed about the policy so they will know the measures which the District will take when informed that a child is HIV infected. Members of the medical community should be informed of the District's policy so that they can advise their patients. The news media should also be knowledgeable about the policy.

Representatives from the District's AIDS Planning Committee shall discuss the District's policy with the staff in each school building and in the Central office. When the policy is explained to a group of employees, it would be advisable to have present a representative from the AIDS Planning Committee who holds a position similar to those in the group being addressed, a medical authority on AIDS and a school nurse.

The Director of Personnel is responsible for ensuring that information on the District's Policy on HIV Infection is given to any new employee.

Education of Parents

Each school's P.T.A. and C.A.C. will be requested to present a program on AIDS and the District's Policy on HIV Infection.

Education of Community

A press release describing the District's policy on HIV Infection shall be issued following the adoption of the policy by the Board. An article about the District's Policy on HIV Infection will be published in the Brandywine Review. In addition, District will use one of its radio programs to discuss the policy.

Education of Medical Community

Representatives of the District's AIDS Committee will request a meeting with officers of the Delaware Medical Society to discuss the District's Policy on HIV Infection. The possibility of articles in Society publications and meetings with

the general membership of the Medical Society will be explored for the purpose of publicizing the District's policy within the medical community. The District physician may suggest other means to communicate with the medical community.

DISTRICT POLICY ON STUDENTS AND
EMPLOYEES WITH HIV INFECTION

STUDENTS WITH HIV INFECTION

Knowledge of the Student's Identity

If school personnel become aware that a student is infected with HIV, the identity of the student will be shared with the following individuals:

1. School Superintendent;
2. Principal of student's school; and
3. School nurse

The parents or guardian of a student less than 18 years of age, or a student who is eighteen years or older, may authorize in writing that the identity of the student be shared with other specified school personnel.

School Attendance and Placement of Student

State Policy

State policy requires that a student entering grades kindergarten through twelve with HIV Infection attend school unless at least one of three conditions exists:

- (a) the student has open sores that cannot be covered;
- (b) the student has demonstrated physically aggressive behavior with a documented history of biting or harming others; or
- (c) the student is, in the opinion of the student's physician, at risk from communicable diseases present in the school or from other medically related problems.

Furthermore, state policy mandates that a decision by a local school district to remove a student from school will be

reviewed by a State Advisory Panel composed of the State Health Officer, the State Epidemiologist, a representative from the Medical Society of Delaware, a representative from the State Department of Public Instruction, a school nurse and a school superintendent. If recommended by the student's physician, the student will remain in school until a determination is made by the panel.

District Policy

District Advisory Committee on Students with HIV Infection

Upon receiving information that a student is HIV-infected, the Superintendent shall refer the matter of continued attendance and placement for that student, without revealing the student's identity, to a District Advisory Committee on Students with HIV Infection comprised of the following individuals:

1. the Superintendent or his designee;
2. the District physician;
3. a physician with experience treating children with HIV-infection;
4. a school nurse;
5. the Director of Special Services;
6. an elementary school principal if the student is an elementary school student or a secondary school principal if the student is a secondary school student; and
7. the attorney for the District.

This District Advisory Committee shall consult as soon as practical with the student's physician. It shall also meet with the parents and the student, if the parents agree. The

Committee may also consult with any other appropriate individuals including, but not limited to, the principal and school nurse of the student's school for the purpose of determining what, if any, restrictions on the student's placement are necessary to protect the student and/or the school community.

Recommendation for Removal from School

The District Advisory Committee shall recommend that an HIV-infected student be removed from school only if he or she exhibits one of the three factors identified in the State DPI Policy and there is no other means by which the school community can reasonably be protected. If the District Advisory Committee determines that the student with HIV Infection should be removed from school for one of the three reasons identified in the State DPI Policy, the recommendation to remove the student from school, together with a proposed plan to provide the student with an appropriate alternative education, will be presented to the Brandywine School Board (the "Board"). If the Board adopts the recommendation of the District Advisory Committee to remove a student from school, that decision shall be referred immediately to the State Advisory Panel for review along with evidence that the student exhibits or manifests the symptoms which justify exclusion and a current report from the student's personal physician. If recommended by the student's physician, the student will remain in the school until a final determination is made that the student is to be removed.

Should the State Advisory Panel agree that the student should be removed from school and if the student was previously

or becomes identified as handicapped (as defined in Chapter 31 of the Delaware Code, Title 14), then the future placement of the student will be referred to the District Identification, Placement, Review and Dismissal Committee ("the IPRD Committee"). A decision to remove a handicapped student from school for more than ten days must receive the consent of the student's parents, or guardian, or the approval of an appropriate court.

Recommendation for Program Restrictions

If the District Advisory Committee determines that certain restrictions on an HIV-infected student's activities at school are medically necessary to protect the well-being of the student and/or the school community, those restrictions will be discussed with the parents and, if appropriate, the student, and will be implemented in a way that, to the extent reasonably possible, the nature of the student's infection will be kept confidential. If the student is identified as handicapped and if the proposed restrictions are such as to constitute a change in the student's educational placement, the decision regarding the child's appropriate placement will be referred to the District's IPRD Committee.

Ongoing Monitoring

The District Advisory Committee shall continue to monitor the appropriateness of the student's placement and any restrictions that are medically appropriate.

Confidentiality of Records

The Family Educational Rights and Privacy Act (also known as the Buckley Amendment), 20 U.S.C. § 1232g, and applicable regulations 34 C.F.R., Part 99, prohibit the release of student records without the written consent of the student's parents. In addition, state law, 14 Del. C. § 4111, establishes that personal records of pupils, including psychological and medical records, are confidential and not to be disclosed to non-school personnel.

While confidentiality is important for all student records, it is especially critical for a child infected with HIV because of the controversial nature of the information. If students and their families are to trust the District and share information that the student has tested positive for the HIV antibody, they must be able to rely on the District's ability to keep that knowledge confidential.

It shall be the responsibility of the student's school nurse to ensure that no references to the HIV-infection shall be kept in the student's standard health records unless otherwise requested in writing by the parents of an HIV-infected student under eighteen years of age or by an HIV-infected student eighteen years or older. A parent or student eighteen years or older who requests in writing that references to the student's HIV Infection be placed in the student's standard health records should realize that such information may thereby be available to other school personnel. All information and documentation relating to the student's HIV infection shall be maintained in a

separate secured file with the Superintendent and the building principal.

Relationship with Student and Student's Family

It is the responsibility of the student's building principal and school nurse to maintain ongoing communication with the student, the student's family and the student's physician. The District should make reasonable attempts to inform the student and the student's parents or guardian about decisions relating to the student's placement and any restrictions before they are implemented. The student and the student's family should regularly keep the student's school nurse informed of the student's medical condition. With the parents' consent, the student's school nurse and/or the District physician shall communicate on a regular basis with the student's physician to monitor the student's medical and psychological condition and to identify decisions and actions advisable to protect the welfare of the student and of the school community. The school nurse, in cooperation with the building principal, shall function as the advocate for the student in the school, assisting in problem resolution and answering questions, and as the coordinator of services provided by other staff.

The student or the student's family may choose to make information about the student's medical condition public. Should there be any harassment and/or intimidation of the student in the school environment, the District shall state clearly its refusal to tolerate such behavior. The District may also take any other

action appropriate to deal with fears, concerns, and misinformation in the school community.

EMPLOYEES WITH HIV-INFECTION

Placement of HIV-Infected Employee

An employee with HIV Infection is permitted to remain employed in a capacity that involves contact with students or other school personnel unless the individual:

- (a) has open sores that cannot be covered; or
- (b) is in the opinion of the employee's physician, at risk from communicable disease present in the school or from other medically related problems.

If the District believes that a change in the employee's status may be necessary, the matter shall be referred to a District Advisory Panel composed of the following individuals:

- 1. a County Health officer;
- 2. a representative from the County Medical Society;
- 3. a school nurse;
- 4. a school or district administrator knowledgeable about the employee's job duties; and
- 5. at the employee's discretion and expense, a representative selected by the employee.

The employee's identity shall not be revealed to the members of the District Advisory Panel.

The District shall submit to the District Advisory Panel any appropriate documentation and information to support any proposed change in employment status. The employee shall submit a report from the employee's physician and any other information relevant to the employee's ability to carry out employment

responsibilities. The District Advisory Panel shall present recommendations to the Board through the Superintendent within two weeks of receiving the proposed change in employment status from the District.

If recommended by the employee's physician, the employee will remain in his/her position until a determination based on the District Advisory Panel's recommendation is made by the Board.

The District Advisory Panel will continue to monitor the employment status of the employee infected with HIV as the Panel deems appropriate.

Confidentiality of Records

Records which contain references to an identified employee who is known to have or is alleged to have AIDS or HIV Infection shall be considered confidential documents.